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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/277,373	03/29/1999	MASAAKI IMAI	103014	3450

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EXAMINER

KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/277,373

Applicant(s)

IMAI, MASAOKI

Examiner

Chuck O Kendall

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This Office Action is the response to the communication received on *September 26, 2002*. Reconsideration of the instant application is requested by applicants. All such supporting documentation has been placed of record in the file. Claims 1-25 are pending in this application.

Response to Arguments

Regarding rejection of the claims 1-25 under 35 U.S.C. § 102(e): Examiner has evaluated applicant's arguments and Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, & 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,706,431 in view of Traversat et al. USPN 6,161,125.

Regarding claims 1, 20-25 Oto discloses a peripheral device connected to a network comprising:

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A device judgment unit that judges whether another peripheral device, that is a same type as the peripheral device (fig 5. 130 a);

a transmission unit that performs transmission and reception of data over the network to and from another peripheral device connected to the network [2:33-45 see node and see definition of node on 3:1-5];

a memory that stores a software program to be used by the peripheral device for executing prescribed operations[2:27-28];

a type judgment unit that judges whether the another peripheral device stores, in a rewritable manner, a same type of software program as the software program stored in the memory, the same type of software program being software to be used by the another peripheral device for executing prescribed operations [2:30-40, see current status and revisions, and revision required also refer to fig 5(555)]; an old/new judgment unit that, when the device judgment unit that judges whether another peripheral device is connected to the network and the type judgment unit judges that the another peripheral device stores the same type of software program in a rewritable manner, judges which of the same type of software program stored in the another peripheral device and the software program stored in the memory is older; and [fig 5,(500)]; a first rewrite unit that, when the new/old judgment unit judges that the same type of software program stored in the another peripheral device is older than the software stored in the memory, rewrites the same type of software program stored in the another peripheral device into the software program stored in the memory [fig 5,(560,565)]. Oto doesn't explicitly disclose whether the same peripheral device is connected to the network. However, Traversat does disclose this feature (13:24-25). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Oto, with Traversant to implement the instant claimed invention because, determining if a connection can be established or if there's a connection before updating a system make updating the system more manageable.

2. (Amended) A peripheral device as claimed in claim 1, wherein the memory stores the software program in a re-writable manner, and further comprising a second rewrite unit that when the old/new judgment unit judges that the same type of software program stored in the another peripheral device is newer than the software stored in the memory, rewrites the software program stored in the memory into the same type of software program stored in the another peripheral device. [2:27-28]

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3. (Amended) A peripheral device as claimed in claim 1, wherein the type judgment unit performs judgment for all other peripheral devices connected to the network; [2:43-44, cites first second and third thereof] and the old/new judgment unit performs judgment on the all other devices that are judged to store the same type of software program by the type judgment unit [fig 5, (500)]

Regarding claims 4 & 17, see reasoning in claim 1.

Regarding claim 5, see reasoning in claim 3, with regards to language for all other devices see [5: 40-45 for transmitting between levels and refer to drawings in fig 1 which shows interconnections and communications between higher levels, subsequently worst case scenario during a search all nodes are traversed].

Regarding claim 6, see reasoning in claim 1.

Regarding claim 7, see reasoning in claim 2.

Regarding claim 8, see reasoning in claim 5.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 - 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otto in view of Traversat et al. USPN 6,161,125 as applied in claim 6, and further in view of Herman et al USPN 5,737,536 hereinafter Herman

Regarding claim 9 (Amended), Otto as modified discloses all the claimed limitations as applied in claim 6. Otto does not explicitly disclose a rewrite prevention unit for prevention updating. However, Hermann discloses preventing updating [2:43-47]. Therefore it would have

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been obvious to one of ordinary skill in the art at the time the invention was made to modify Otto as modified with Herman to implement the instant claimed invention because, it's a common practice during updating for controlling access to shared data [2:43-47].

Regarding claim 10 see reasoning in claim 1, and with reference to a second rewriting unit, see 12:50-53, for nodes are responsible for detecting and updating/revising between nodes.

Regarding claim 11,14 & 16 see claim 5 for reasoning.

Regarding claim 12 see claim 1 for reasoning.

Regarding claim 13 see claim 2 for reasoning.

Regarding 15 see claim 1 for reasoning.

Regarding 16 see claim 1 for reasoning.

Regarding claim 18 see claim 1 for reasoning, prior art cites from column 5 that, "node" could be a station, terminal (portable or not) that is capable of communicating signals, examiner interprets this as a network printer

Regarding to claim 19 see claim 1 and 18 for reasoning.

Correspondence Information

Any inquires concerning this communication or earlier communications from the examiner should be directed to Chuck O. Kendall who may be reached via telephone at (703) 308-6608. The examiner can normally be reached Monday through Friday between 8:00 A.M. and 5:00 P.M. est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Greg Morse* can be reached at (703) 308-4789.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

For facsimile (fax) send to 703-7467239 official and 703-7467240 draft

Chuck O. Kendall

**Software Engineer Patent Examiner
United States Department of Commerce**

Gregory Morse
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